

HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.17119 of 2004

Date : 28-07-2006

Between:

B.V.S. Narayana

... Petitioner/s

and

The Regional Manager,
A.P.S.R.T.C.,
Kurnool Region,
Kurnool District and another.

...Respondent/s

HON'BLE SRI JUSTICE N.V. RAMANA

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ORDER:

This writ petition is filed seeking mandamus declaring the action of the second respondent in issuing the Proceedings No.P2/253(3)/04-ADN, dated 20-7-2004 seeking to recover an amount of Rs.38,002-60 ps. from the salary of the petitioner @ Rs.1,000/- per month, which is alleged to have been paid in excess, as illegal and arbitrary and consequently set aside the same.

The petitioner, who is working as a Conductor in the respondent Corporation, was terminated from the service in the year 1987 on the allegation of cash and ticket irregularities. Aggrieved by the same, the petitioner approached the Labour Court and as against the Award of the Labour Court, the Corporation preferred a writ petition being W.P.No.6402 of 1989. This Court, by order dated 17-3-1993, was pleased to modify the Award of the Labour Court directing the respondents to reinstate the petitioner into service with all benefits, but without any break in service. Accordingly, the pay of the petitioner was fixed from time to time. While so, impugned order dated 11-3-2004 was issued seeking to recover an amount of Rs.38,002/- from the salary of the petitioner @ Rs.1,000/- per month towards the excess amount paid in the increments. It is the case of the petitioner that the

said order is passed without any notice or without following the procedure contemplated under APSRTC (CCA) Regulations before recovery. It is also stated that a copy of the impugned order was served on the petitioner after one month of its issuance, which also does not disclose issuance of any notice for such recovery. Hence the present writ petition.

The respondents have filed counter denying the petition averments. In the counter, it is stated that pursuant to the directions of the Hon'ble High Court in W.P.No.6402 of 1989, dated 17-3-1993, the petitioner was granted notional increments and his pay was fixed revising his salary. It is also stated that while fixing his pay, some mistake was done and erroneously punishments were not counted properly, due to which an amount of Rs.38,002-60 ps. was paid in excess to the petitioner and hence the same is sought to be recovered from the petitioner through the impugned order. It is further stated that since the recovery is only rectification of mistake, but not as punishment, the Regulations relied on by the petitioner does not applicable to the case of the petitioner, and hence, sought for dismissal of the writ petition.

Heard learned counsel for the petitioner and the learned standing counsel for the respondents Corporation.

At the time of hearing, it is represented that in similar circumstances, in W.P.No.6423 of 2004, dated 5-4-2004, this Court while setting aside the impugned order, directed the respondents therein to furnish the details of excess payments made to the petitioner therein after giving reasonable opportunity to the petitioner and pass appropriate orders in accordance with law as regards recovery.

Following the same, this writ petition is also disposed of with the same direction. No costs.

N.V. RAMANA, J

28-07-2006.
Msr.

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(Msr)